

1 BARRY J. PORTMAN
Federal Public Defender
2 VARELL L. FULLER
Assistant Federal Public Defender
3 160 West Santa Clara Street, Suite 575
San Jose, CA 95113
4 Telephone: (408) 291-7753
5 Counsel for Defendant CRUZ
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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,)	No. CR 10-00625 JF
)	
12 Plaintiff,)	STIPULATION AND [PROPOSED]
)	ORDER CONTINUING HEARING DATE
13 vs.)	AND EXCLUDING TIME UNDER THE
)	SPEEDY TRIAL ACT
14 JUAN CARLOS CRUZ,)	
)	
15 Defendant.)	
)	

16
17 **STIPULATION**

18 Defendant Juan Carlos Cruz, by and through Assistant Federal Public Defender Varell L.
19 Fuller, and the United States, by and through Assistant United States Attorney Allison Danner,
20 hereby stipulate that, with the Court's approval, the status hearing currently set for Thursday,
21 January 20, 2011, at 9:00 a.m., shall be continued to Thursday, March 3, 2011, at 9:00 a.m.

22 The reason for the requested continuance is defense counsel's effective preparation and
23 Mr. Cruz-Botello's unavailability. On the morning of November 19, 2010, Mr. Cruz-Botello's
24 Santa Rosa home was burglarized, and Mr. Cruz-Botello, who was home at the time, was bound
25 and shot in the stomach by one of his assailants. Mr. Cruz-Botello survived and was
26 subsequently hospitalized for his injuries, and he has since been released. He is still recovering

1 from the incident, and Mr. Cruz-Botello's doctor has advised him to rest until March 1, 2011, to
 2 further his recovery. He is therefore unavailable to attend the status hearing currently set in this
 3 matter for January 20, 2011. Additionally, defense counsel's investigation and review of the
 4 discovery provided remains on-going.

5 The parties agree that the time between January 20, 2011, and March 3, 2011, may be
 6 excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), for effective
 7 preparation by defense counsel, and 18 U.S.C. § 3161(h)(3)(A), based on the defendant's
 8 unavailability.

9
 10 Dated: January 18, 2011

11 /s/
 12 VARELL L. FULLER
 Assistant Federal Public Defender

13
 14 Dated: January 18, 2011

15 /s/
 ALLISON DANNER
 Assistant United States Attorney

16
 17 **~~PROPOSED~~ ORDER**

18 GOOD CAUSE APPEARING, upon stipulation of the parties, IT IS HEREBY
 19 ORDERED that the hearing currently set for Thursday, January 20, 2011, shall be continued to
 20 Thursday, March 3, 2011, at 9:00 a.m.

21 THE COURT FINDS that failing to exclude the time between January 20, 2011, and
 22 March 3, 2011, would unreasonably deny defense counsel reasonable time necessary for effective
 23 preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. §§
 24 3161(h)(7)(B)(iv).

25 THE COURT FINDS that the ends of justice served by excluding the time between
 26 January 20, 2011 and March 3, 2011
~~November 18, 2010, and January 20, 2011,~~ from computation under the Speedy Trial Act

1 outweigh the interests of the public and the defendant in a speedy trial.

2 THE COURT FURTHER FINDS and excludes time from computation under the Speedy
3 Trial Act based on the defendant's unavailability. *See* 18 U.S.C. § 3161(h)(3)(A).

4 THEREFORE, IT IS HEREBY ORDERED that the time between January, 20, 2011, and
5 March 3, 2011, shall be excluded from computation under the Speedy Trial Act, 18 U.S.C. §
6 3161(h)(7)(A) and (B)(iv).

7 IT IS SO ORDERED.

8 Dated: 1/19/11

9 
THE HONORABLE JEREMY FOGEL
United States District Judge